

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

J.C. RODGERS,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	Civil Action No.: 1:06-cv- 00491-WKW
	)	
JOHN E. POTTER, Postmaster General	)	
of the United States, et al,	)	
	)	
Defendants.	)	

**MOTION TO DISMISS, OR IN THE ALTERNATIVE,  
FOR SUMMARY JUDGMENT**

Come now the Defendants, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and move this Court to dismiss the above-styled action pursuant to Rules 12(b)(6) and, alternatively, 56(c) of the Federal Rules of Civil Procedure. Defendants assert that each and every claim within the complaint is due to be dismissed as the plaintiff has failed to state a claim upon which relief may be granted. In support of this motion, Defendants rely on the following:

1. The pleadings, which are of record and, hence not submitted herewith;
2. The exhibits attached hereto which are numbered as Defendants' Exhibits 1 through 4.
3. The memorandum brief contemporaneously filed herewith.

WHEREFORE, premises considered, the complaint is due to be and should be dismissed and/or summary judgment granted with costs of this litigation taxed to Plaintiff.

Respectfully submitted this 15<sup>th</sup> day of August, 2006.

LEURA G. CANARY  
United States Attorney

By: s/R. Randolph Neeley  
Assistant United States Attorney  
Bar Number: #9083-E56R  
Attorney for Defendant  
United States Attorney's Office  
Post Office Box 197  
Montgomery, AL 36101-0197  
Telephone: (334) 223-7280  
Facsimile: (334) 223-7418  
E-mail: [rand.neeley@usdoj.gov](mailto:rand.neeley@usdoj.gov)

Of Counsel:  
JENNIFER S. NICHOLS  
USPS Law Department  
225 N. Humphreys Blvd.  
Memphis, TN 38166-0170  
901-747-7530  
901-747-7371 (fax)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed, by United States Postal Service, a copy of same to the following non-CM/ECF participant(s): J.C. Rodgers, *pro se*, 4331 Highway 141, Elba, Alabama 36323.

Done this 15<sup>th</sup> day of August, 2006.

s/R. Randolph Neeley  
Assistant United States Attorney